

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION ONE

JOHN KECK and JERI KECK,)	ED92750
Respondents)	
)	
v.)	Appeal from the Circuit Court of
)	the City of St. Louis
)	Hon. Timothy J. Wilson
AMERICAN FAMILY MUTUAL)	
INSURANCE CO., Appellant.)	FILED November 24, 2009

OPINION SUMMARY

The appellant, American Family Mutual Insurance Company, appeals from the judgment of the Circuit Court of the City of St. Louis in favor of the respondent, John Keck, finding that the underinsured motorist coverage was not subject to a \$50,000 set-off. The appellant now appeals.

In its single point on appeal, the appellant argues the trial court erred in failing to reduce the respondent's damages by the \$50,000 he received from his settlement with the tortfeasor's insurance carrier.

REVERSED IN PART AND AFFIRMED IN PART AS MODIFIED.

DIVISION ONE HOLDS: The trial court erred when it failed to reduce the respondent's damages by the amount he received from the tortfeasor's insurance carrier. Pursuant to Missouri Supreme Court Rule 84.14, which grants this court power to "give such judgment as the court ought to give," we enter judgment in favor of the respondent and against the appellant in the amount of \$30,000.

Opinion by: Nannette A. Baker, J.
Kathianne Knaup Crane, P.J. and Clifford H. Ahrens, J., concur.

Attorney for Appellant: Amy Surber

Attorney for Respondent: Ryan Cox

<p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>
